



**6351-01-P**

## **COMMODITY FUTURES TRADING COMMISSION**

### **Agency Information Collection Activities: Notice of Intent to Extend Collection**

#### **3038-0094; Clearing Member Risk Management**

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice.

**SUMMARY:** The Commodity Futures Trading Commission (CFTC) is announcing an opportunity for public comment on the extension of a collection of certain information by the agency. Under the Paperwork Reduction Act ("PRA"), Federal agencies are required to publish notice in the Federal Register concerning each proposed collection of information and to allow 60 days for public comment. This notice solicits comments on the obligation to maintain records related to clearing documentation between the customer and the customer's clearing member.

**DATES:** Comments must be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit comments, identified by OMB Control No. 3038-0094, by any of the following methods:

- The Agency's web site, at <http://comments.cftc.gov/>. Follow the instructions for submitting comments through the web site.

- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

- *Hand Delivery/Courier*: Same as Mail above.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <http://www.cftc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Jocelyn Partridge, Special Counsel, Division of Clearing and Risk, Commodity Futures Trading Commission, (202) 418-5926; email: [jpartridge@cftc.gov](mailto:jpartridge@cftc.gov).

**SUPPLEMENTARY INFORMATION:** Under the PRA, 44 U.S.C. 3501 *et seq.*, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. “Collection of Information” is defined in 44 U.S.C. 3502(3) and 5 C.F.R. 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the Federal Register concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice for the extension of the collection of information listed below. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

*Title:* Clearing Member Risk Management (OMB Control No. 3038-0094). This is a request for extension of a currently approved information collection.

*Abstract:* Section 3(b) of the Commodity Exchange Act (“Act” or “CEA”) provides that one of the purposes of the Act is to ensure the financial integrity of all

transactions subject to the Act and to avoid systemic risk. Section 8a(5) authorizes the Commission to promulgate such regulations that it believes are reasonably necessary to effectuate any of the provisions or to accomplish any of the purposes of the Act. Risk management systems are critical to the avoidance of systemic risks.

Section 4s(j)(2) requires each Swap Dealer (“SD”) and Major Swap Participant (“MSP”) to have risk management systems adequate for managing its business. Section 4s(j)(4) requires each SD and MSP to have internal systems and procedures to perform any of the functions set forth in Section 4s.

Section 4d requires FCMs to register with the Commodity Futures Trading Commission (“Commission”). It further requires Futures Commission Merchants (“FCMs”) to segregate customer funds. Section 4f requires FCMs to maintain certain levels of capital. Section 4g establishes reporting and recordkeeping requirements for FCMs.

Pursuant to these provisions, the Commission adopted § 1.73 which applies to clearing members that are FCMs and § 23.609 which applies to clearing members that are SDs or MSPs. These provisions require these clearing members to have procedures to limit the financial risks they incur as a result of clearing trades and liquid resources to meet the obligations that arise. The regulations require clearing members to: (1) establish credit and market risk-based limits based on position size, order size, margin requirements, or similar factors; (2) use automated means to screen orders for compliance with the risk-based limits; (3) monitor for adherence to the risk-based limits intra-day and overnight; (4) conduct stress tests of all positions in the proprietary account and all positions in any customer account that could pose material risk to the futures commission

merchant at least once per week; (5) evaluate its ability to meet initial margin requirements at least once per week; (6) evaluate its ability to meet variation margin requirements in cash at least once per week; (7) evaluate its ability to liquidate the positions it clears in an orderly manner, and estimate the cost of the liquidation at least once per month; and (8) test all lines of credit at least once per quarter.

Each of these items has been observed by Commission staff as an element of an existing sound risk management program at an SD, MSP, or FCM. The Commission regulations require each clearing member to establish written procedures to comply with this regulation and to keep records documenting its compliance. The information collection obligations imposed by the regulations are necessary to implement certain provisions of the CEA, including ensuring that registrants exercise effective risk management and for the efficient operation of trading venues among SDs, MSPs, and FCMs. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.<sup>1</sup>

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;

---

<sup>1</sup> The OMB control numbers for the CFTC's regulations were published on December 30, 1981. *See* 46 FR 63035 (Dec. 30, 1981).

- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses.

You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.<sup>2</sup>

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from <http://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

---

<sup>2</sup> 17 CFR 145.9.

*Burden Statement:* The respondent burden for this collection is estimated to average 2 hours per response for an estimated annual burden of 504 hours per respondent. This estimate includes the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a federal agency.

*Respondents/Affected Entities:* Clearing member Swap Dealers, Major Swap Participants, and Futures Commission Merchants.

*Estimated Number of Respondents:* 166 (101 Clearing Member Swap Dealers and 65 Clearing Member Futures Commission Merchants).

*Estimated Average Burden Hours Per Respondent:* 504.

*Estimated Total Annual Burden Hours:* 83,664 hours.

*Frequency of Collection:* As needed.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: November 8, 2018.

Robert Sidman,

*Deputy Secretary of the Commission*

[FR Doc. 2018-24761 Filed: 11/13/2018 8:45 am; Publication Date: 11/14/2018]